

PROFESSIONAL CONDUCT LAW 2313

“MacKenzie” refers to Gavin MacKenzie, *Lawyers and Ethics: Professional Responsibility and Discipline*, 4th ed. (Toronto: Thomson Canada, 2006).

READING LIST

Class No.	Date	Topics	Required Reading and/or Viewing
1.	Sept. 6	Introduction	Course Syllabus. “The Trouble with Lawyers with John Stossel”, ABC News.
2.	Sept. 11	Who are you and who do you want to become?	Robert K. Wilkins, “The Person You’re Supposed to Become: The Politics of the Law School Experience” (1987), 45 U. Toronto Fac. L. Rev. 98 (HeinOnline). University of New Brunswick Declaration of Rights and Responsibilities, http://www.unb.ca/humanrights/Declaration.pdf .
3.	Sept. 13	What is a profession? Historical perspective	MacKenzie, Chpt. 1. Chief Justice of Ontario Advisory Committee on Professionalism, Working Group on the Definition of Professionalism, “Elements of Professionalism” (revised June 2002), http://www.lsuc.on.ca/media/definingprofessoct2001revjune2002.pdf .
4.	Sept. 18	Who are we now? Diversity and the legal profession	Constance Backhouse, “Gender and Race in the Construction of ‘Legal Professionalism’: Historical Perspectives” (October 2003) http://www.lsuc.on.ca/media/constance_backhouse_gender_and_race.pdf
5.	Sept. 20	Choosing an ethical paradigm – role-based ethics	MacKenzie, Chpt. 2, 25.6 and 25.7. Charles P. Curtis, “The Ethics of Advocacy” (1951), 4 Stan. L. Rev. 3 (HeinOnline).

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Class No.	Date	Topics	Required Reading and/or Viewing
6.	Sept. 25	Choosing an ethical paradigm – alternative sources *You will each be assigned one of these readings for class discussion*	Sharon Dolovich, “Ethical Lawyering and the Possibility of Integrity” (2002), 70 Fordham L. Rev. 1629 (HeinOnline). Stephen Ellmann, “The Ethic of Care as an Ethic for Lawyers” (1993), 81 Geo. L.J. 2665 (HeinOnline). Charles Fried, “The Lawyer as Friend” (1975), 85 Yale L.J. 1060-1089 (HeinOnline). David Tanovich, “Law’s Ambition and Reconstruction of Role Morality in Canada” (2005), 28 Dalhousie L.J. 267 (HeinOnline). Randal Graham, “Defining ‘the Good Lawyer’”: An Economic Account of Legal Ethics” (October 2003) http://www.lsuc.on.ca/media/randall_graham_good_lawyer.pdf
7.	Sept. 27	The View from Outside – Pop culture and lawyers	William H. Simon, “Moral Pluck: Legal Ethics in Popular Culture” (2001), 101 Colum. L. Rev. 421 (HeinOnline). *Distribution of assignment*
8.	Oct. 2	Why do people behave ethically? Can ethics be taught?	Margaret Ann Wilkinson et al., “Do Codes of Ethics Actually Shape Legal Practice?” (2000), 45 McGill L.J. 645 (HeinOnline).
9.	Oct. 4	The Independence of the Bar and Methods of Regulating Lawyers: self-regulation, private law regulation and competition law	MacKenzie, Chpt. 27, 25.1 and 25.2. <i>Law Society Act, 1996</i> and <i>General Rules</i> , as amended. Canadian Bar Association and Law Society of New Brunswick Codes of Professional Conduct.
10.	Oct. 9	Establishing the lawyer-client relationship	MacKenzie, Chpt. 4.2, 4.3, 25.13, 25.14 and 25.15. Earl Cherniak and Shelby Austin, “Standing for Justice: The Lawyer’s Role in the Client Selection Process” (October 2006), http://www.lsuc.on.ca/media/seventh_colloquium_cherniak.pdf .
	Oct. 11	NO CLASS	*Assignment due*

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11.	Oct. 16	Getting paid and Fiduciary duties	MacKenzie, Chpt. 25.5. Leonard Rotman, "Balancing the 'Scales of Justice': Fiduciary Obligations and <i>Stewart v. CBC</i> " (1999), 78 Canadian Bar Review 445 (available at http://www.cba.org/cba_barreview/Search.aspx?VolDate=09/01/1999) Law Society of New Brunswick, <i>Rules for the Review of Lawyers' Bills</i> http://dev.lawsociety.nb.ca/assets/documents/rules-bills.pdf Law Society of New Brunswick, <i>Contingent Fee Rules</i> http://www.lawsociety-barreau.nb.ca/assets/documents/contingent-fee-rules.pdf
12.	Oct. 18	The three pillars: Competence	MacKenzie, Chpt. 23, 24, 25.9 and 25.10. <i>Preyra v. Law Society of Upper Canada</i> , [2000] L.S.D.D. No. 60. <i>Preyra v. Law Society of Upper Canada</i> , [2003] L.S.D.D. No. 25.
13.	Oct. 23	The three pillars: Confidentiality	MacKenzie, Chpt. 3.
14.	Oct. 25	The three pillars: Loyalty - advocacy v. civility?	MacKenzie, Chpt. 4 and 8.
15.	Oct. 30	The three pillars: Loyalty - conflict of interest	MacKenzie, Chpt. 5, 22, 25.3 and 25.4. <i>Strother v. 3464920 Canada Inc.</i> , [2007] S.C.J. No. 24. Law Society of New Brunswick, <i>Rules Respecting Conflicts Arising as a Result of Transfer Between Law Firms</i> , http://www.lawsociety-barreau.nb.ca/assets/documents/rules-conflicts.pdf
16.	Nov. 1	Special cases? Criminal defence Presentation by Edward Derrah (Legal Aid)	MacKenzie, Chpt. 7. <i>R. v. Murray</i> (2000), 144 C.C.C. (3d) 289 (Ont. H.C.J.).

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17.	Nov. 6	Special cases? Criminal prosecutions Presentation by George Chiasson, Q.C. (Public Prosecutions)	MacKenzie, Chpt. 6.
18	Nov. 8	Conflict of interest, cont.	Complete reading from Class 15.
19.	Nov. 13	Special cases? Counselling, negotiation and mediation	MacKenzie, Chpt. 14, 15 and 16. Carrie Menkel-Meadow, "Ethics in Alternative Dispute Resolution: New Issues, No Answers from the Adversary Conception of Lawyers' Responsibilities" (1997), 38 S. Tex. L. Rev. 407 (HeinOnline).
20.	Nov. 15	Special cases? Corporations	MacKenzie, Chpt. 20.
21.	Nov. 20	Access to justice - Affordable legal services	MacKenzie, Chpt. 9 and 12. Mr. Justice J.C. Major, "Lawyers' Obligation to Provide Legal Services" (1995), 33 Alta. L. Rev. 719 (HeinOnline).
22.	Nov. 22	Access to justice - Advertising, soliciting and the media	MacKenzie, Chpt. 10, 11 and 13.
23.	Nov. 27	Disciplinary Proceedings Presentation by Shirley MacLean (Registrar of Complaints) and Norm Bossé (Chair of Complaints Committee), Law Society of New Brunswick	MacKenzie, Chpt. 26. Law Society of New Brunswick, Frequently Asked Questions http://dev.lawsociety.nb.ca/emain.asp?32 Law Society of New Brunswick, <i>Practice Review Rules</i> http://www.lawsociety-barreau.nb.ca/assets/documents/Practice-Review-Rules-Feb-2005.pdf
24.	Nov. 29	Review and Follow-up	
25.	Dec. 4	Spot-the-issues	View the film: "Class Action".

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